

designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: May 17, 2001.

**B. M. Salerno,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

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## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 207

#### St. Marys Falls Canal and Locks, Michigan; Use, Administration and Navigation

**AGENCY:** Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations on procedures to navigate the St. Marys Falls Canal and Soo Locks at Sault Ste. Marie, Michigan, to incorporate changes in navigation safety procedures published in three Notice to Navigation Interests issued on March 29, 2000. The St. Marys Falls Canal and Locks navigation regulation is amended to delete reference to oil tankers having draft and beam permitting transit through the Canadian lock, since the Canadian lock no longer handles oil tankers. The regulation will also prohibit the cleaning and gas freeing of tanks on all hazardous material cargo vessels while either in the lock or while in any part of the Soo Locks approach canals. As an additional vessel safety measure, whenever a tank vessel is within the limits of the lock piers either above or below the locks, vessel movement will be limited to a single vessel, unless the tanker is certified gas free or is carrying non-combustible products. The regulation will allow tankers with any type cargo to transit the MacArthur Lock when the locks park is closed, while tankers carrying non-combustible products or tankers certified gas free will be allowed to transit the MacArthur Lock when the park is open. The regulation clarifies that vessels, except U.S. vessels of war and public vessels (as defined in 46 U.S.C. 2101), carrying explosives are prohibited from transiting U.S. Locks.

**DATES:** The final rule is effective July 5, 2001.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW-OD, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Hilton, Dredging and Operations Branch (CECW-OD) at (202) 761-4669 or Mr. David L. Dulong, Chief, Engineering Technical Services, Detroit District at (313) 226-6794.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authority in Section 4 of the Rivers and Harbors Act of August 18, 1894 (40 Stat. 266; 33 U.S.C. 1), the Corps is amending the regulations in 33 CFR 207.441(b)(4) and (5). The regulation governing the operation of the St. Marys Falls Canal and Locks, 33 CFR 207.441 was adopted on March 6, 1954, (19 FR 1275) and has been amended at various times.

Paragraph (b) is amended to delete reference to classes of vessels permitted to transit the U.S. locks or enter any of the United States approach canals. Paragraph (b)(4) is further amended by deleting reference to oil tankers being permitted to transit through the Canadian lock, as the Canadian lock has been refurbished and can no longer accommodate oil tankers. In addition, paragraph (b)(4) is amended by deleting reference to personnel smoking onboard tankers while in the lock area, as prohibiting smoking is included in 33 CFR 207.440(s). Paragraph (b)(4) is amended and rewritten to improve vessel safety by adding subparagraphs (i), (ii), and (iii). Subparagraph (b)(4)(i) prohibits the cleaning and gas freeing of tanks on all hazardous material cargo vessels (as defined in 49 CFR part 171), while the vessel is either in the lock or in any part of the Soo Locks approach canals from the outer end of the east center pier to the outer end of the southwest pier. Subparagraph (b)(4) (ii) is added for safety purposes to limit vessel movement to a single vessel whenever a tank vessel carrying hazardous cargo is within the limits of the lock piers either above or below the locks, unless the vessel is certified gas free or is carrying non-combustible products. Subparagraph (b)(4)(iii) is added to allow tankers carrying any type of cargo to transit MacArthur Lock when the locks park is closed. Tankers certified gas free or carrying non-combustible products that will not react hazardously with water will be allowed to transit MacArthur Lock when the park is open.

Paragraph (b)(5) is amended to add a phrase to clarify that vessels, except U.S. vessels of war or public vessels as defined in 46 U.S.C. 2101, carrying

explosives are prohibited from transiting the U.S. Locks.

This final rule is not a major rule for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act, the Corps certifies that this final rule will not have a significant impact on small business entities.

#### Comments on the Proposed Rule

Three comments were received to the January 23, 2001, **Federal Register** proposed rule and the January 23, 2001, public notice issued by the Detroit District. Two industry comments requested a clarifying phrase be added to § 207.441(4)(ii)(iii) to allow the release of a vessel from the lock in the direction of an approaching tank vessel, if the tanker is certified gas free and allow tankers certified gas free to transit the lock when MacArthur Lock park is open. We concur with adding the phrase "unless the vessel is certified gas free or is carrying non-combustible products". One comment requested that U.S. vessels of war and public vessels, as defined in 46 U.S.C. 2101, be exempt from the provision of being prohibited from transiting the U.S. Locks carrying explosives. We concur with this exemption.

#### List of Subjects in 33 CFR Part 207

Navigation (water), Penalties, Reporting and recordkeeping requirements, Waterways.

For reasons set out in the preamble, Title 33, Chapter II of the Code of Federal Regulations is amended as follows:

#### PART 207—NAVIGATION REGULATIONS

1. The authority citation for part 207 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1).

2. Section 207.441 is amended by revising paragraphs (b)(4) and (b)(5) to read as follows:

#### § 207.441 St. Marys Falls Canal and Locks, Mich.; security.

\* \* \* \* \*

(b) *Restrictions on transit of vessels.*

\* \* \*

(1) *Tanker vessels*—(i) *Hazardous material.* Cleaning and gas freeing of tanks on all hazardous material cargo vessels (as defined in 49 CFR part 171) shall not take place in a lock or any part of the Soo Locks approach canals from the outer end of the east center pier to the outer end of the southwest pier.

(ii) *Approaching.* Whenever a tank vessel is approaching the Soo Locks and within the limits of the lock piers (outer ends of the southwest and east center

piers) either above or below the locks, no other vessel will be released from the locks in the direction of the approaching tank vessel, unless the tank vessel is certified gas free or is carrying non-combustible products, until the tank vessel is within the lock chamber or securely moored to the approach pier. Whenever a tank vessel is within a Soo Lock Chamber, the tank vessel, unless certified gas free or is carrying non-combustible products, will not be released from the lock until the channel within the limits of the lock piers either above or below the lock, in the direction of the tank vessel, is clear of vessels or vessels therein are securely moored to the approach pier. This limits movement to a single vessel whenever a tank vessel is within the limits of the lock piers either above or below the locks, unless the tank vessel is certified gas free or is carrying non-combustible products. Tank vessels to which this paragraph (b)(4)(ii) applies include those vessels carrying fuel oil, gasoline, crude oil or other flammable liquids in bulk, including vessels that are not certified gas free where the previous cargo was one of these liquids.

(iii) *Locks park*. Except as provided in paragraph (b)(5) of this section, tankers with any type cargo will be permitted to transit the MacArthur Lock when the locks park is closed. The exact dates and times that the park is closed varies, but generally these periods are from midnight to 6 a.m. June through September with one or two hour closure extensions in the early and late seasons. Tankers carrying non-combustible products that will not react hazardously with water or tankers that have been purged of gas or hazardous fumes and certified gas free will be allowed to transit the MacArthur Lock when the park is open.

(5) *Carrying explosives*. All vessels, except U.S. vessels of war and public vessels as defined in 46 U.S.C. 2101, carrying explosives are prohibited from transiting the U.S. Locks.

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Dated: May 23, 2001.

**Alfred H. Foxx,**

*Colonel, U.S. Army, Executive Director of Civil Works.*

[FR Doc. 01-14023 Filed 6-4-01; 8:45 am]

**BILLING CODE 3710-92-P**

## POSTAL SERVICE

### 39 CFR Part 111

#### Eligibility Requirements for Attachments and Enclosures With Bound Printed Matter

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the Domestic Mail Manual (DMM) to implement changes to the standards governing permissible attachments and enclosures with Bound Printed Matter.

**EFFECTIVE DATE:** June 14, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Jerome M. Lease, 703-292-4184.

**SUPPLEMENTARY INFORMATION:** On March 26, 2001, the Postal Service published a proposed rule in the **Federal Register** (66 FR 16431) soliciting comments concerning the standards in the Domestic Mail Manual (DMM) governing permissible attachments and enclosures with Bound Printed Matter (BPM) eligible to be mailed at BPM rates.

Under current postal standards, the only attachments and enclosures authorized to be mailed with qualifying Bound Printed Matter at BPM rates are printed matter mailable as Standard Mail and merchandise samples meeting prescribed conditions. The proposed change would rescind the provision concerning merchandise samples. In its place, the Postal Service proposed the inclusion of "nonprint" attachments and enclosures so long as the amount of the attachments and enclosures is relatively modest compared to the amount of qualifying Bound Printed Matter and each has minimal value. In each case, objective standards were proposed for application of the tests. That is, the proposed rule allows for the inclusion of nonprint attachments and enclosures so long as the combined weight of all nonprint attachments and enclosures in the mailpiece is less than or equal to 25 percent of the weight of the Bound Printed Matter in the mailpiece. In addition, the individual cost of each nonprint attachment or enclosure must be less than or equal to the cost of a "low-cost" item as defined in DMM E670.5.11, and the combined cost of all nonprint attachments and enclosures may not exceed two times the cost of a low-cost item as defined in DMM E670.5.11. The "low-cost" amount for calendar year 2001 is \$7.60 and this amount is adjusted for inflation annually by the Internal Revenue Service. For purposes of this test, "cost" is the actual cost to the mailer for the item, rather than the price for which it

sells the item, represented value, market value, or other amount.

In sum, some of the nonprint attachments and enclosures permitted with Bound Printed Matter under the current standard would also be permissible under the new standard, while some of these attachments and enclosures would not be permitted under the new standard. In addition, some matter not permitted as attachments and enclosures under the current standard would be permissible under the new standard.

The Postal Service received 23 comments in response to the proposal. Twenty-two comments supported the proposal to replace the current standard with an objective standard based on the weight and value of attachments and enclosures. A number of these comments stated that the objective standards would be easier for mailers and postal personnel to understand and use, and thus would facilitate the preparation of mailings and acceptance of mail. Some comments also noted that efforts to revise standards in this manner are appropriate in view of the changes taking place in the publishing industry. Of the 22 favorable comments, 18 fully supported the proposed weight and value standards. Three commenters requested that the weight limit on nonprint attachments and enclosures be increased from 25 percent to 50 percent and one commenter requested that the limit be increased from 25 percent to 49 percent.

The Postal Service has given consideration to these requests to increase the weight of nonprint attachments and enclosures. However, the Postal Service is mindful that Bound Printed Matter rates are intended for printed matter. This is not to say that a modest amount of nonprint attachments and enclosures should be prohibited, and indeed some nonprint matter has been permitted under current standards. The Postal Service is concerned that either of these higher ratios proposed by commenters would serve to cloud the distinction between bona fide Bound Printed Matter and other Package Services mail, such as Parcel Post, or Standard Mail. Therefore, neither of the suggested higher weight limits is adopted in this final rule.

Of the comments supporting the proposed standards, five comments sought a specific ruling concerning "binders" as bona fide elements of Bound Printed Matter. These requests are beyond the scope of this rulemaking and are not addressed in this final rule.

The remaining comment, although taking "no position on the merits of the proposed change," suggested that the